IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6291 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R. TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

P W D EMPLOYEES UNION

Versus

STATE OF GUJARAT

Appearance:

Mr.Shalin N. Mehta for M/S NJ MEHTA ASSOCIATES
for Petitioners

Mr.K.N. Raval, ASSTT. GOVERNMENT PLEADER for

Respondent No. 1

RULE SERVED for Respondent No. 2, 3

CORAM : MR.JUSTICE RAVI R. TRIPATHI

Date of decision: 08/12/2000

ORAL JUDGEMENT

The present petition is filed by PWD Employees' Union against the policy adopted by the Government of

Gujarat with regard to payment of ad hoc bonus to its employees. What is challenged is that under the said policy the authorities have decided to pay the ad hoc bonus based on notional salary without there being any basis for the same. It is challenged on the ground that it is not only arbitrary, unreasonable, discriminatory but also in violation of the provisions of policy of Payment of Bonus Act, 1965 and it amounts to unfair labour practice as defined under the Industrial Disputes Act. Therefore, the same should be declared as violative of Articles 14 and 16 of the Constitution of India.

(emphasis supplied)

2. It is the case of the petitioners that the members of the petitioner union were working as daily rated workers in Civil Circle of Ukai Dam; Roads & Buildings Department of Gujarat Government; and Jilla Panchayat in and nearby Surat City. The members of the petitioner union were working a daily rated workers and had completed five years of service as daily rated workers. The members of the petitioner union were getting daily wage ranging from Rs.14.50 to Rs.35.00 on the basis of respective category. For other grievances the petitioner union filed a separate Special Civil Application No.3607 of 1982. However, the present petition is filed only for a limited purpose that after Government of India and Government of Gujarat adopted the policy of paying ad hoc bonus to their employees in similar manner as industrial workers, Government of Gujarat passed a Resolution for ad hoc bonus for the financial year 1984-- 85. Under the said Resolution, 18 days emoluments are to be as ad hoc bonus for the financial year 1984-85. The same is subject to an eligibility limit of emoluments upto and including Rs.1600/- per month. A copy of said Resolution is produced at Annexure 'A' to this petition. Clause (4) of the said Resolution reads as under :

> "4. The causal wage earners who have worked for at least 240 days for each year for 3 years or more will be eligible for ad hoc bonus. The amount will be computed on notional monthly wages of Rs.150/- per month irrespective of actual monthly wage. The amount of ad hoc bonus will be Rs.150 X 18/ 31 = Rs.81.10."

3. It is against the phrase of the said clause which says, "The amount will be computed on notional monthly wages of Rs.150/- per month irrespective of actual monthly wage." that the present petitioners are agitating their grievance.

4. The matter was filed on 19.11.1985 and this Court issued notice returnable on 9.12.1985. Thereafter, the Court issued rule on 24.1.1986 returnable on 3.3.1986. Thereafter, the matter has remained pending for hearing and final disposal. The respondent authorities did not file any affidavit in reply for all this time. Today, an affidavit in reply, affirmed on 10.8.2000 at Gandhinagar is tendered to this Court. The deponent, Shri Ghanshyam P. Bhavsar, Under Secretary to the Govt. of Gujarat, Narmada, Water Resources and Water Supply Department is not able to justify the reason for adopting the policy of making payment of ad hoc bonus by computing the same on notional monthly wage of Rs.150/- per month irrespective of the actual monthly wage. The deponent has tried to justify the said action of the Government by saying that Bonus Act cannot be made applicable to daily wagers under the provisions of Bombay Bonus Act. It is further stated that the State Govt. has strictly followed the Central Govt. policy in this regard and that the Govt. has paid bonus to the daily wagers and regular employees on purely ad hoc basis as per the Central Govt. policy in this regard.

5. Learned Assistant Government Pleader, Shri Raval is not able to give any reasons in support of the said policy. However, he invited attention of the Court to the fact that the other Special Civil Application No.3607 of 1982 seeking the other benefits which was allowed by the learned Single Judge of this Court and the judgement of the learned Single Judge was confirmed by the Division Bench of this Court, against that the State Government had filed S.L.P. (Civil) No.16731 of 1997 before the Honorable Supreme Court of India wherein interim stay has been granted in respect of payment of benefits sought for, such as, LTC, Medical Allowance, Leave Encashment, Group Insurance, etc. on 17.4.1998.

6. Mr.Raval, learned Assistant Govt. Pleader is not able to explain as to how does the aforeaid fact helps him to justify the policy adopted by the Govt. for payment of ad hoc bonus on the aforesaid basis of notional monthly wage of Rs.150/-, per month irrespective of actual monthly wage. At this juncture, Mr.Mehta, learned advocate for the petitioner stated that the said SLP was heard as a Civil Appeal and is already dismissed in the month of August 2000. The Court is not required to go into details of that matter inasmuch as the present policy is not supported by any reason or rhyme. Therefore, said policy cannot be allowed to continue. The present petition is thus, required to be allowed.

7. The respondent authorities are directed to pay ad hoc bonus to the members of the petitioner union and others on the basis of the actual salary/ wage drawn by them and not on the basis of notional monthly wage at Rs.150/-, as provided in the aforesaid Government Resolution.

8. The petition is allowed. Rule is made absolute with no order as to costs.

8th December 2000 (Ravi R. Tripathi, J.)

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